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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION

TRANSPORT TECHNOLOGIES,  
LLC, a California limited liability  
company,

Plaintiff,

v.

LOS ANGELES COUNTY  
METROPOLITAN  
TRANSPORTATION AUTHORITY,  
a public entity,

Defendant.

LOS ANGELES COUNTY  
METROPOLITAN  
TRANSPORTATION AUTHORITY,  
a public entity,

Third Party Plaintiff,

v.

ATKINSON CONTRACTORS, LP.  
a limited partnership,

Third Party Defendant.

No. 2:15-cv-06423-RSWL-MRW

**STIPULATED PROTECTIVE  
ORDER**

1     1. INTRODUCTION

2             1.1 PURPOSES AND LIMITATIONS

3             Discovery in this action is likely to involve production of confidential,  
4     proprietary, or private information for which special protection from public  
5     disclosure and from use for any purpose other than prosecuting this litigation  
6     maybe warranted. Accordingly, the parties hereby stipulate to and petition the  
7     Court to enter the following Stipulated Protective Order. The parties acknowledge  
8     that this Order does not confer blanket protections on all disclosures or responses to  
9     discovery and that the protection it affords from public disclosure and use extends  
10    only to the limited information or items that are entitled to confidential treatment  
11    under the applicable legal principles. The parties further acknowledge, as set forth  
12    in Section 12.3, below, that this Stipulated Protective Order does not entitle them to  
13    file confidential information under seal; Civil Local Rule 79-5 sets forth the  
14    procedures that must be followed and the standards that will be applied when a  
15    party seeks permission from the court to file material under seal.

16            1.2 GOOD CAUSE STATEMENT

17            Some of the material expected to be exchanged between the parties is  
18    information that is not generally available to the public, and that is maintained in  
19    confidence by the Producing Party. These materials include technical, proprietary,  
20    or security sensitive information about the accused systems, and financial  
21    information of the parties that is maintained as not publicly available and qualifies  
22    for protection as confidential commercial information under Rule 26(c). The  
23    parties further expect that third party discovery will be obtained in this case that  
24    will include technical and proprietary information about the accused systems,  
25    technical and proprietary information contained in procurement proposals  
26    submitted by third parties, and financial information of the third parties that is  
27    maintained as not publicly available and qualifies for protection as confidential  
28    commercial information under Rule 26(c).

Should such information be available for public disclosure, harm to the Producing Party could result in the form of compromised ability to compete because competitors and the public would have access to information to which they would otherwise not have access. Allowing the public access to technical information would enable competitors to have access to proprietary information to which they would not otherwise have access, which could decrease the value of the Producing Party's confidential technical information and compromise their ability to compete.

## 2. DEFINITIONS

2.1 Action: *Transport Technologies, LLC v. Los Angeles County Metropolitan Transportation Authority*, Case No. 2:15-cv-06423-RSWL-MRW.

2.2 Challenging Party: a Party or Non-Party that challenges the designation of information or items under this Order.

2.3 "CONFIDENTIAL" Information or Items: information (regardless of how it is generated, stored or maintained) or tangible things that qualify for protection under Federal Rule of Civil Procedure 26(c), and as specified above in the Good Cause Statement.

2.4 Counsel: Outside Counsel of Record and House Counsel (as well as their support staff).

2.5 Designating Party: a Party or Non-Party that designates information or items that it produces in disclosures or in responses to discovery as "CONFIDENTIAL."

2.6 Disclosure or Discovery Material: all items or information, regardless of the medium or manner in which it is generated, stored, or maintained (including, among other things, testimony, transcripts, and tangible things), that are produced or generated in disclosures or responses to discovery in this matter.

2.7 Expert: a person with specialized knowledge or experience in a matter

1 pertinent to the litigation who has been retained by a Party or its counsel to serve as  
2 an expert witness or as a consultant in this Action.

3 2.8 House Counsel: attorneys who are employees of a party to this Action,  
4 or are employees of County Counsel of Los Angeles County, who serves as House  
5 Counsel of a party to this Action. House Counsel does not include Outside Counsel  
6 of Record or any other outside counsel.

7 2.9 Non-Party: any natural person, partnership, corporation, association,  
8 or other legal entity not named as a Party to this action.

9 2.10 Outside Counsel of Record: attorneys who are not employees of a  
10 party to this Action but are retained to represent or advise a party to this Action and  
11 have appeared in this Action on behalf of that party or are affiliated with a law firm  
12 which has appeared on behalf of that party, and includes support staff.

13 2.11 Party: any party to this Action, including all of its officers, directors,  
14 employees, consultants, retained experts, and Outside Counsel of Record (and their  
15 support staffs).

16 2.12 Producing Party: a Party or Non-Party that produces Disclosure or  
17 Discovery Material in this Action.

18 2.13 Professional Vendors: persons or entities that provide litigation  
19 support services (e.g., photocopying, videotaping, translating, preparing exhibits or  
20 demonstrations, and organizing, storing, or retrieving data in any form or medium)  
21 and their employees and subcontractors.

22 2.14 Protected Material: any Disclosure or Discovery Material that is  
23 designated as "CONFIDENTIAL."

24 2.15 Receiving Party: a Party that receives Disclosure or Discovery  
25 Material from a Producing Party.

26  
27 3. SCOPE

28 The protections conferred by this Stipulation and Order cover not only

1 Protected Material (as defined above), but also (1) any information copied or  
2 extracted from Protected Material; (2) all copies, excerpts, summaries, or  
3 compilations of Protected Material; and (3) any testimony, conversations, or  
4 presentations by Parties or their Counsel that might reveal Protected Material. Any  
5 use of Protected Material at trial shall be governed by the orders of the trial judge.  
6 This Order does not govern the use of Protected Material at trial.

7  
8 4. DURATION

9 Even after final disposition of this litigation, the confidentiality obligations  
10 imposed by this Order shall remain in effect until a Designating Party agrees  
11 otherwise in writing or a court order otherwise directs. Final disposition shall be  
12 deemed to be the later of (1) dismissal of all claims and defenses in this Action,  
13 with or without prejudice; and (2) final judgment herein after the completion and  
14 exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action,  
15 including the time limits for filing any motions or applications for extension of time  
16 pursuant to applicable law.

17  
18 5. DESIGNATING PROTECTED MATERIAL

19 5.1 Exercise of Restraint and Care in Designating Material for Protection.

20 Each Party or Non-Party that designates information or items for protection under  
21 this Order must take care to limit any such designation to specific material that  
22 qualifies under the appropriate standards. The Designating Party must designate for  
23 protection only those parts of material, documents, items, or oral or written  
24 communications that qualify so that other portions of the material, documents,  
25 items, or communications for which protection is not warranted are not swept  
26 unjustifiably within the ambit of this Order.

27 Mass, indiscriminate, or routinized designations are prohibited. Designations  
28 that are shown to be clearly unjustified or that have been made for an improper

1 purpose (e.g., to unnecessarily encumber the case development process or to  
2 impose unnecessary expenses and burdens on other parties) may expose the  
3 Designating Party to sanctions.

4 If it comes to a Designating Party's attention that information or items that it  
5 designated for protection do not qualify for protection, that Designating Party must  
6 promptly notify all other Parties that it is withdrawing the inapplicable designation.

7 5.2 Manner and Timing of Designations. Except as otherwise provided in  
8 this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise  
9 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection  
10 under this Order must be clearly so designated before the material is disclosed or  
11 produced.

12 Designation in conformity with this Order requires:

13 (a) for information in documentary form (e.g., paper or electronic  
14 documents, but excluding transcripts of depositions or other pretrial or trial  
15 proceedings), that the Producing Party affix at a minimum, the legend  
16 "CONFIDENTIAL" (hereinafter "CONFIDENTIAL legend"), to each page that  
17 contains protected material. If only a portion or portions of the material on a page  
18 qualifies for protection, the Producing Party also must clearly identify the protected  
19 portion(s) (e.g., by making appropriate markings in the margins).

20 A Party or Non-Party that makes original documents available for  
21 inspection need not designate them for protection until after the inspecting Party  
22 has indicated which documents it would like copied and produced. During the  
23 inspection and before the designation, all of the material made available for  
24 inspection shall be deemed "CONFIDENTIAL." After the inspecting Party has  
25 identified the documents it wants copied and produced, the Producing Party must  
26 determine which documents, or portions thereof, qualify for protection under this  
27 Order. Then, before producing the specified documents, the Producing Party must  
28 affix the "CONFIDENTIAL legend" to each page that contains Protected Material.

1 If only a portion or portions of the material on a page qualifies for protection, the  
 2 Producing Party also must clearly identify the protected portion(s) (e.g., by making  
 3 appropriate markings in the margins).

4 (b) for testimony or information given in depositions or at hearings that  
 5 the Designating Party identify the Disclosure or Discovery Material on the record,  
 6 or within 14 days of receipt of the final transcript.

7 (c) for information produced in some form other than documentary and  
 8 for any other tangible items, that the Producing Party affix in a prominent place on  
 9 the exterior of the container or containers in which the information is stored the  
 10 legend "CONFIDENTIAL." If only a portion or portions of the information  
 11 warrants protection, the Producing Party, to the extent practicable, shall identify the  
 12 protected portion(s).

13 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent  
 14 failure to designate qualified information or items does not, standing alone, waive  
 15 the Designating Party's right to secure protection under this Order for such  
 16 material. Upon timely correction of a designation, the Receiving Party must make  
 17 reasonable efforts to assure that the material is treated in accordance with the  
 18 provisions of this Order.

## 19 20 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

21 6.1 Timing of Challenges. Any Party or Non-Party may challenge a  
 22 designation of confidentiality at any time that is consistent with the Court's  
 23 Scheduling Order.

24 6.2 Meet and Confer. The Challenging Party shall initiate the dispute  
 25 resolution process (and, if necessary, file a discovery motion) under Local Rule  
 26 37.1 et seq.

27 6.3 The burden of persuasion in any such challenge proceeding shall be on  
 28 the Designating Party. Frivolous challenges, and those made for an improper



1 purpose (e.g., to harass or impose unnecessary expenses and burdens on other  
 2 parties) may expose the Challenging Party to sanctions. Unless the Designating  
 3 Party has waived or withdrawn the confidentiality designation, all parties shall  
 4 continue to afford the material in question the level of protection to which it is  
 5 entitled under the Producing Party's designation until the Court rules on the  
 6 challenge.

## 7. ACCESS TO AND USE OF PROTECTED MATERIAL

9 7.1 Basic Principles. A Receiving Party may use Protected Material that is  
 10 disclosed or produced by another Party or by a Non-Party in connection with this  
 11 Action only for prosecuting, defending, or attempting to settle this Action. Such  
 12 Protected Material may be disclosed only to the categories of persons and under the  
 13 conditions described in this Order. When the Action has been terminated, a  
 14 Receiving Party must comply with the provisions of section 13 below (FINAL  
 15 DISPOSITION).

16 Protected Material must be stored and maintained by a Receiving Party at a  
 17 location and in a secure manner that ensures that access is limited to the persons  
 18 authorized under this Order.

19 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless  
 20 otherwise ordered by the court or permitted in writing by the Designating Party, a  
 21 Receiving Party may disclose any information or item designated  
 22 "CONFIDENTIAL" only to:

23 (a) the Receiving Party's Outside Counsel of Record in this Action,  
 24 as well as employees of said Outside Counsel of Record to whom it is reasonably  
 25 necessary to disclose the information for this Action;

26 (b) the officers, directors, and employees (including House  
 27 Counsel) of the Receiving Party to whom disclosure is reasonably necessary for this  
 28 Action;



(c) Experts (as defined in this Order) of the Receiving Party to whom disclosure is reasonably necessary for this Action and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

(d) the Court and its personnel;

(e) court reporters and their staff;

(f) professional jury or trial consultants, mock jurors, and Professional Vendors to whom disclosure is reasonably necessary for this Action and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

(g) the author or recipient of a document containing the information or a custodian or other person who otherwise possessed or knew the information;

(h) during their depositions, witnesses, and attorneys for witnesses, in the Action to whom disclosure is reasonably necessary provided: (1) the deposing party requests that the witness sign the form attached as Exhibit A hereto; and (2) they will not be permitted to keep any confidential information unless they sign the “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise agreed by the Designating Party or ordered by the court. Pages of transcribed deposition testimony or exhibits to depositions that reveal Protected Material may be separately bound by the court reporter and may not be disclosed to anyone except as permitted under this Stipulated Protective Order; and

(i) any mediator or settlement officer, and their supporting personnel, mutually agreed upon by any of the parties engaged in settlement discussions.

#### 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER LITIGATION

If a Party is served with a subpoena or a court order issued in other litigation that compels disclosure of any information or items designated in this Action as

1 “CONFIDENTIAL” that Party must:

2 (a) promptly notify in writing the Designating Party. Such  
3 notification shall include a copy of the subpoena or court order;

4 (b) promptly notify in writing the party who caused the subpoena or  
5 order to issue in the other litigation that some or all of the material covered by the  
6 subpoena or order is subject to this Protective Order. Such notification shall  
7 include a copy of this Stipulated Protective Order; and

8 (c) cooperate with respect to all reasonable procedures sought to be  
9 pursued by the Designating Party whose Protected Material may be affected.

10 If the Designating Party timely seeks a protective order, the Party served with  
11 the subpoena or court order shall not produce any information designated in this  
12 action as “CONFIDENTIAL” before a determination by the court from which the  
13 subpoena or order issued, unless the Party has obtained the Designating Party’s  
14 permission. The Designating Party shall bear the burden and expense of seeking  
15 protection in that court of its confidential material and nothing in these provisions  
16 should be construed as authorizing or encouraging a Receiving Party in this Action  
17 to disobey a lawful directive from another court.

18  
19 9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE  
20 PRODUCED IN THIS LITIGATION

21 (a) The terms of this Order are applicable to information produced  
22 by a Non-Party in this Action and designated as “CONFIDENTIAL.” Such  
23 information produced by Non-Parties in connection with this litigation is protected  
24 by the remedies and relief provided by this Order. Nothing in these provisions  
25 should be construed as prohibiting a Non-Party from seeking additional protections.

26 (b) In the event that a Party is required, by a valid discovery  
27 request, to produce a Non-Party’s confidential information in its possession, and the  
28 Party is subject to an agreement with the Non-Party not to produce the Non-Party’s

1 confidential information, then the Party shall:

2 (1) promptly notify in writing the Requesting Party and the  
3 Non-Party that some or all of the information requested is subject to a  
4 confidentiality agreement with a Non-Party;

5 (2) promptly provide the Non-Party with a copy of the  
6 Stipulated Protective Order in this Action, the relevant discovery request(s), and a  
7 reasonably specific description of the information requested; and

8 (3) make the information requested available for inspection  
9 by the Non-Party, if requested.

10 (c) If the Non-Party fails to seek a protective order from this court  
11 within 14 days of receiving the notice and accompanying information, the  
12 Receiving Party may produce the Non-Party's confidential information responsive  
13 to the discovery request. If the Non-Party timely seeks a protective order, the  
14 Receiving Party shall not produce any information in its possession or control that  
15 is subject to the confidentiality agreement with the Non-Party before a  
16 determination by the court. Absent a court order to the contrary, the Non-Party  
17 shall bear the burden and expense of seeking protection in this court of its Protected  
18 Material.

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20 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

21 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed  
22 Protected Material to any person or in any circumstance not authorized under this  
23 Stipulated Protective Order, the Receiving Party must immediately (a) notify in  
24 writing the Designating Party of the unauthorized disclosures, (b) use its best  
25 efforts to retrieve all unauthorized copies of the Protected Material, (c) inform the  
26 person or persons to whom unauthorized disclosures were made of all the terms of  
27 this Order, and (d) request such person or persons to execute the "Acknowledgment  
28 and Agreement to Be Bound" that is attached hereto as Exhibit A.

11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE  
PROTECTED MATERIAL

No production of material in this action, whether made pursuant to this Order or otherwise, shall be deemed a waiver of any legally cognizable privilege to withhold such material. The production in this action of any material that is subject to a claim of attorney/client privilege, the work product doctrine; or any other applicable privilege or ground for withholding production shall be deemed to be inadvertent and to be without prejudice to any claim that such material is protected by the attorney/client privilege, the work product doctrine, or any other applicable privilege or ground for withholding production, and no party shall be held to have waived any rights by such production.

Upon the discovery by the Producing Party of a disclosure of material for which a privilege is asserted, the Producing Party shall promptly notify the party in receipt of the material in writing of the disclosure, identify the document that contains such information, and immediately takes steps to preclude further disclosure. In such an event, the party in receipt of the material will return all copies of identified materials within seven (7) business days and treat those materials as if they had been initially excluded from the production.

If, on the other hand, it is the Receiving Party that discovers materials produced to it that clearly appear to be privileged or work product protected materials, the party receiving such materials should refrain from examining the materials any more than is essential to ascertain if the materials are privileged, and shall immediately notify the Producing Party that he or she possesses material that appears to be privileged. In such an event, the party in receipt of the material will return all copies of identified materials within seven (7) business days and treat those materials as if they had been initially excluded from the production.

12. PRIVILEGE LOG LIMITATION

If a party withholds a document from production on a claim of privilege or as trial preparation material, the parties agree that the obligations of Rule 26(b)(5)(A) shall not apply if the document was created after May 23, 2014.

13. MISCELLANEOUS

13.1 Right to Further Relief. Nothing in this Order abridges the right of any person to seek its modification by the Court in the future. In particular, the parties recognize that circumstances may arise that require a heightened level of protection from disclosure, and the parties acknowledge the possibility that this Order may need to be modified to account for such circumstances.

13.2 Right to Assert Other Objections. By stipulating to the entry of this Protective Order no Party waives any right it otherwise would have to object to disclosing or producing any information or item on any ground not addressed in this Stipulated Protective Order. Similarly, no Party waives any right to object on any ground to use in evidence of any of the material covered by this Protective Order.

13.3 Filing Protected Material. A Party that seeks to file under seal any Protected Material must comply with Civil Local Rule 79-5. Protected Material may only be filed under seal pursuant to a court order authorizing the sealing of the specific Protected Material at issue. If a Party's request to file Protected Material under seal is denied by the court, then the Receiving Party may file the information in the public record unless otherwise instructed by the court.

14. FINAL DISPOSITION

After the final disposition of this Action, as defined in paragraph 4, within 60 days of a written request by the Designating Party, each Receiving Party must return all Protected Material to the Producing Party or destroy such material. As used in this subdivision, "all Protected Material" includes all copies, abstracts,

1 compilations, summaries, and any other format reproducing or capturing any of the  
 2 Protected Material. Whether the Protected Material is returned or destroyed, the  
 3 Receiving Party must submit a written certification to the Producing Party (and, if  
 4 not the same person or entity, to the Designating Party) by the 60 day deadline that  
 5 (1) identifies (by category, where appropriate) all the Protected Material that was  
 6 returned or destroyed and (2) affirms that the Receiving Party has not retained any  
 7 copies, abstracts, compilations, summaries or any other format reproducing or  
 8 capturing any of the Protected Material. Notwithstanding this provision, Counsel  
 9 are entitled to retain an archival copy of all pleadings, motion papers, trial,  
 10 deposition, and hearing transcripts, legal memoranda, correspondence, deposition  
 11 and trial exhibits, expert reports, attorney work product, and consultant and expert  
 12 work product, even if such materials contain Protected Material. Any such archival  
 13 copies that contain or constitute Protected Material remain subject to this Protective  
 14 Order as set forth in Section 4 (DURATION).

15 15. Any willful violation of this Order may be punished by civil or criminal  
 16 contempt proceedings, financial or evidentiary sanctions, reference to disciplinary  
 17 authorities, or other appropriate action at the discretion of the Court.

18  
 19 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

20  
 21  
 22 Dated: February 23, 2016

FREITAS ANGELL & WEINBERG LLP

23  
 24 /s/Jason S. Angell

Jason S. Angell

Attorneys for Plaintiff

Transport Technologies, LLC

1 Dated: February 23, 2016

HANSON BRIDGETT LLP

2  
3 /s/Russell C. Petersen

4 Russell C. Petersen  
5 Attorneys for Defendant  
6 Los Angeles County  
7 Metropolitan Transportation Authority

8 Dated: February 23, 2016

MCKOOL SMITH HENNIGAN P.C.

9  
10 /s/Phillip J. Lee

11 Phillip J. Lee  
12 Attorneys for Third-party Defendant  
13 Atkinson Contractors, LP

14 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

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16  
17 DATED: February 24, 2016



18 HON. MICHAEL R. WILNER  
19 United States Magistrate Judge  
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## EXHIBIT A

## ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, \_\_\_\_\_ **[full name]**, of \_\_\_\_\_ **[full address]**, declare under penalty of perjury that I have read in its entirety and understand the Stipulated Protective Order that was issued by the United States District Court for the Central District of California on [date] in the case of *Transport Technologies, LLC v. Los Angeles County Metropolitan Transportation Authority*, Case No. 2:15-cv-06423-RSWL-MRW. I agree to comply with and to be bound by all the terms of this Stipulated Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Stipulated Protective Order to any person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the Central District of California for the purpose of enforcing the terms of this Stipulated Protective Order, even if such enforcement proceedings occur after termination of this action. I hereby appoint \_\_\_\_\_ **[full name]** of \_\_\_\_\_ **[full address and telephone number]** as my California agent for service of process in connection with this action or any proceedings related to enforcement of this Stipulated Protective Order.

Date: \_\_\_\_\_

City and State where signed: \_\_\_\_\_

Printed name: \_\_\_\_\_

Signature: \_\_\_\_\_

ATTESTATION

I, Jason S. Angell, am the ECF User whose ID and password are being used to file this STIPULATED PROTECTIVE ORDER. I attest that, pursuant to United States District Court, Central District of California Civil L.R. 5-4.3.4, concurrence in the filing of this document has been obtained from all counsel. I declare under penalty of perjury that the foregoing is true and correct.

/s/ Jason S. Angell  
Jason S. Angell